

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Richard GRIFFITHS et al. :
Serial No. 08/973,363 :
Filed December 4, 1997 : Attorney Docket No.
AVIAN CHD GENES AND THEIR USE IN
METHODS FOR SEX IDENTIFICATION
IN BIRDS 263/PPNTIR1172US

RESPONSE

Assistant Commissioner for Patents,
Washington, D.C.

Sir:

This is responsive to the Notice to File Missing Parts dated March 9, 1998.

The Notice to File Missing Parts requires the filing of an executed Declaration.

However, an executed Declaration has been previously filed on February 4, 1998. Copies of the executed Declaration and cover letter are enclosed herewith. A copy of the PTO postcard receipt is also enclosed. It is noted that the PTO fee for filing the executed Declaration was also concurrently submitted on February 4, 1998.

Issuance of the Official Filing Receipt is accordingly
requested.

Respectfully submitted,

Richard GRIFFITHS et al.

By: Warren Cheek
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicants

WMC/dlk
Washington, D.C.
Telephone No. (202) 721-8200
April 7, 1998

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : ATTN: BOX MISSING PART
Richard GRIFFITHS et al. : THE COMMISSIONER IS AUTHORIZED
Serial No. 08/973,363 : TO CHARGE ANY DEFICIENCY IN FEES FOR THIS PAPER TO DRAFTSMAN'S ACCOUNT NO. 23-0975.
Filed December 4, 1997 : Attorney Docket No.
263/PPNTIR1172US
AVIAN CHD GENES AND THEIR USE IN
METHODS FOR SEX IDENTIFICATION IN BIRDS

SUBMISSION OF EXECUTED DECLARATION

Assistant Commissioner for Patents,

Washington, D.C. 20231

Sir:

Enclosed herewith is an executed Declaration for the above-identified application which was originally filed without an executed Declaration.

The Declaration identifies the application by the Title, name of the inventors, and filing date of the application.

Accordingly, it is submitted that the present application now complies with the requirements of 37 CFR 1.53(d).

Copies of the Request for Refund are attached hereto along with a cover letter and small entity Declaration.

Enclosed herewith is the \$65.00 surcharge required by 37 CFR 1.16(e).



Early issuance of a filing receipt is therefore requested.

Respectfully submitted,

Richard GRIFFITHS et al.

By: Warren Cheek
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicants

WMC/dlk
Washington, D.C.
Telephone No. (202) 371-8850
February 4, 1998

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Richard GRIFFITHS et al. : ATTN: REFUND SECTION,
Serial No. 08/973,363 : ACCOUNTING DIVISION
OFFICE OF FINANCE
Filed December 4, 1997 :

AVIAN CHD GENES AND THEIR USE IN
METHODS FOR SEX IDENTIFICATION IN BIRDS

REQUEST FOR REFUND

Honorable Commissioner of Patents and Trademarks,
Washington, D.C. 20231

Sir:

In accordance with 37 CFR 1.28(a), a request is hereby made for a refund of \$854.00 of the \$1708.00 filing fee originally submitted with the application. This refund is based on the small entity status for the application, as supported by the attached executed Verified Statement Claiming Small Entity Status. The request is filed within two months of the date of the timely payment of the full filing fee.

It is submitted that the refund herein of \$854.00 is appropriate under 37 CFR 1.28(a) and may be credited to the Deposit Account of the undersigned, 23-0975.

Respectfully submitted,

Richard GRIFFITHS et al.

By: Warren Cheek
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicants

WMC/dlk
Washington, D.C.
Telephone No. (202) 371-8850
February 4, 1998

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Richard GRIFFITHS et al. :
Serial No. 08/973,363 :
Filed December 4, 1997 : Attorney Docket No.
263/PPNTIR1172US

AVIAN CHD GENES AND THEIR USE IN
METHODS FOR SEX IDENTIFICATION
IN BIRDS

SUBMISSION OF SMALL ENTITY DECLARATION

Assistant Commissioner for Patents,
Washington, D.C.

Sir:

There is submitted herewith a small entity declaration for the above-identified application. Please make this document a permanent part of the application file.

Respectfully submitted,
Richard GRIFFITHS et al.

By: Warren Cheek Jr.
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Applicants

WMC/dlk
Washington, D.C.
Telephone No. (202) 371-8850
February 4, 1998

APR. 7. 1998 12:46PM

WENDEROTH LIND & PONACK

NO. 2476

P. 1

#7
DOE0 1/2/98
4/7/98

John T. Miller
Michael R. Davis
Matthew M. Jacob
Jeffrey Nolton
Warren M. Cheek, Jr.
Nils E. Pedersen
Charles R. Watts

Michael S. Huppert
Paul J. Ditzmeyer (Patent Agent)
Dhiren R. Odedra (Patent Agent)
Lee Cheng
Kaushal R. Odedra*
Jeffrey R. Filippek (Electrical Consultant)
Ralph H. Dean, Jr. (Chemical Consultant)
Luke J. Yeh*

OF COUNSEL:
Vincent M. Creedon
John T. Fedigan

*Member of Bar other than D.C.

Date: April 7, 1998

To: Ms. Donna Green

Fax No.: (703) 305-3230

From: Warren M. Cheek, Jr.

Number of pages being transmitted, including this cover sheet: 12

RE: Serial No. 08/973,363 (Richard GRIFFITHS et al.), filed December 4, 1997

MESSAGE:

Please direct all questions concerning the transmittal of these pages to Donna King.

CONFIDENTIALITY NOTICE

This message is intended for the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service.

4. Translation of the Annexes MUST be submitted no later than the time period set above. annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
5. The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: PCT/DO/EO/917

Notice of Defective Translation

PTO-875

FORM PCT/DO/EO/905 (September 1996)

*Michelle Reed Mosley
Paralegal Specialist*

Telephone: (703) 305 3735

APR. 7. 1998 12:47PM

WENDEROTH LIND & PONACK

NO. 2476 P. 4



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

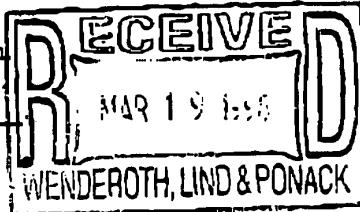
8/973363

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/973.363	GRIFFITHS	R 263/PPNTIR11
	INTERNATIONAL APPLICATION NO.	
	5611	PCT/GB96/01341
WENDEROTH LIND & PONACK 805 FIFTEENTH STREET NW SUITE 100 WASHINGTON DC 20005	I.A. FILING DATE	PRIORITY DATE
	06/05/96	06/06/95
	DATE MAILED:	
	03/09/98	

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494), an Elected Office (37 CFR 1.495):

- U.S. Basic National Fee.
- Copy of the international application in: a non-English language. English.
- Translation of the international application into English.
- Oath or Declaration of inventors(s) for DO/EO/US.
- Copy of Article 19 amendments.
- Translation of Article 19 amendments into English.
- The International Preliminary Examination Report in English and its Annexes, if any.
- Translation of Annexes to the International Preliminary Examination Report into English.
- Preliminary amendment(s) filed _____ and _____
- Information Disclosure Statement(s) filed 04/15/97 and _____
- Assignment document.
- Power of Attorney and/or Change of Address.
- Substitute specification filed _____.
- Verified Statement Claiming Small Entity Status.
- Priority Document.
- Copy of the International Search Report and copies of the references cited therein.
- Other:



2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
 - The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ _____ as a large entity small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY 21 OR 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

continuation in part application which discloses and claims subject matter in addition to
that disclosed in the prior application (37 CFR 1.63(d)).

Michelle Mosley

PCT International Division

Telephone (703)

FORM PCT/DO/EO/917 (September 1996)



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

3/973363

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
1037113-363	GRIFFITHS	203711NTIRI1
		INTERNATIONAL APPLICATION NO.
		PCT/G196/01341
		I.A. FILING DATE PRIORITY DATE
		06/05/96 06/06/95
		DATE MAILED:
		03/09/98

NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
2. does not identify the specification to which it is directed.
3. does not identify the inventor(s).
4. does not identify the citizenship of each inventor.
5. does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. does not identify the city and state or city and foreign country of residence or each inventor.
2. does not state that the person making the oath or declaration:
 - a. has reviewed and understands the contents of the specification, including the claims; as amended by any amendment specifically referred to in the oath or declaration.
 - b. acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the

FORM PTO 1566 (REV. 5-95)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY DOCKET NUMBER 263/PPNTIR1172US
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. §371			
International Application No. PCT/GB96/01341	International Filing Date June 5, 1996	Priority Date Claimed June 6, 1995	
Title of Invention AVIAN CHD GENES AND THEIR USE IN METHODS FOR SEX IDENTIFICATION IN BIRDS			
Applicant(s) For DO/EO/US Richard GRIFFITHS and Bela TIWARI			
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:			
<p>1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. §371.</p> <p>2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. §371.</p> <p>3. <input type="checkbox"/> This express request to begin national examination procedures (35 U.S.C. §371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. §371(b) and PCT Articles 22 and 39(1).</p> <p>4. <input type="checkbox"/> A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.</p> <p>5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. §371(c)(2)) a. <input type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau). b. <input type="checkbox"/> has been transmitted by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US)</p> <p>6. <input type="checkbox"/> A translation of the International Application into English (35 U.S.C. §371(c)(2)).</p> <p>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. §371(c)(3)). a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau). b. <input type="checkbox"/> have been transmitted by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made.</p> <p>8. <input checked="" type="checkbox"/> An executed oath or declaration of the inventor(s) (35 U.S.C. §371(c)(4)). ATTACHMENT A</p> <p>9. <input type="checkbox"/> A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. §371(c)(5)).</p>			
Items 10. to 13. below concern other document(s) or information included:			
<p>10. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>11. <input checked="" type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. ATTACHMENT B</p> <p>12. <input type="checkbox"/> A FIRST preliminary amendment. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment.</p> <p>13. <input checked="" type="checkbox"/> Other items or information: COPY OF SMALL ENTITY DECLARATION AND REQUEST FOR REFUND FILED CONCURRENTLY HEREWITH</p>			

U.S. APPLICATION NO. 08/973,363	INTERNATIONAL APPLICATION NO. PCT/GB96/01341	ATTORNEY'S DOCKET NO. 263/PPNTIR1172US																
14. [X] The following fees are submitted		<input type="checkbox"/> CALCULATIONS <input type="checkbox"/> PTO USE ONLY																
BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):																		
<input type="checkbox"/> Search Report has been prepared by the EPO or JPO..... \$ 930.00																		
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO..... \$1,070.00																		
ENTER APPROPRIATE BASIC FEE AMOUNT =		\$																
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).		\$130.00																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Claims</th> <th style="width: 25%;">Number Filed</th> <th style="width: 25%;">Number Extra</th> <th style="width: 25%;">Rate</th> </tr> </thead> <tbody> <tr> <td>Total Claims</td> <td>-20 =</td> <td></td> <td>X \$22.00</td> </tr> <tr> <td>Independent Claims</td> <td>.3 =</td> <td></td> <td>X \$82.00</td> </tr> <tr> <td colspan="2">Multiple dependent claim(s) (if applicable)</td> <td></td> <td>+ \$270.00</td> </tr> </tbody> </table>		Claims	Number Filed	Number Extra	Rate	Total Claims	-20 =		X \$22.00	Independent Claims	.3 =		X \$82.00	Multiple dependent claim(s) (if applicable)			+ \$270.00	
Claims	Number Filed	Number Extra	Rate															
Total Claims	-20 =		X \$22.00															
Independent Claims	.3 =		X \$82.00															
Multiple dependent claim(s) (if applicable)			+ \$270.00															
TOTAL OF ABOVE CALCULATIONS =		\$130.00																
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity Statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28)		\$65.00																
SUBTOTAL =		\$65.00																
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).		+ \$																
TOTAL NATIONAL FEE =		\$																
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +		\$40.00																
TOTAL FEES ENCLOSED =		\$105.00																
		Amount to be refunded \$																
		Amount to be charged \$																
a. <input checked="" type="checkbox"/> A check in the amount of \$105.00 to cover the above fees is enclosed. A duplicate copy of this form is enclosed. b. <input type="checkbox"/> Please charge my Deposit Account No. 23-0975 in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 23-0975 . A duplicate copy of this form is enclosed.																		
NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.																		
SEND ALL CORRESPONDENCE TO: WENDEROTH, LIND & PONACK 805 Fifteenth St., N.W., Ste. 700 Washington, D.C. 20005		<u>Warren Cheek Jr.</u> SIGNATURE																
THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975		<u>33,367</u> REGISTRATION NUMBER																
February 4, 1998		[CHECK NO.]																

*** ACTIVITY REPORT ***

RECEPTION OK

TX/RX NO.	4127
CONNECTION TEL	202 371 8856
CONNECTION ID	
START TIME	04/07 13:51
USAGE TIME	03'19
PAGES	12
RESULT	OK